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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/724,876	
	Filing Date	28 November 2000	
	First Named Inventor	Bryan JULIEN, et al.	
	Group Art Unit	1652	
	Examiner Name	Nashaat T. Nashed, Ph.D.	
Total Number Of Pages In This Submission	4	Attorney Docket No.	300622003110

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SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Morrison & Foerster LLP 3811 Valley Centre Drive, Suite 500, San Diego, CA 92130 Kate H. Murashige
Signature	
Date	August 8, 2002

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PATENT
Docket No. 300622003110

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In the application of:

Bryan JULIEN, *et al.*

Serial No.: 09/724,876

Filing Date: 28 November 2000

For: RECOMBINANT METHODS AND
MATERIALS FOR PRODUCING
EPOTHILONE AND EPOTHILONE
DERIVATIVES

Examiner: Nashaat T. Nashed, Ph. D.

Group Art Unit: 1652

AMENDMENT UNDER 37 C.F.R. § 1.111

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to an Office action herein mailed 8 July 2002, time for response to which was set to expire 8 August, 2002. Restriction among a number of groups was required. Applicants elect, provisionally, to prosecute the invention of what is apparently Group V, claims 15-17, 19 and 24-25 as they putatively apply to the product of the epoD gene. This election is made with traverse and applicants respectfully request that the Examiner carefully review the following remarks.

Applicants have previously elected the invention which the Office has grouped in Groups I-VI, claims 15-17, 19 and 24-25. Claims 18 and 20, classified in still other groups, have

not been canceled because applicants understand that upon recognition that claims to a composition are allowable, claims to a method to use such composition would be rejoined. Accordingly, applicants recognize that claims 18 and 20 are withdrawn from consideration.

With regard to the requirement to select among the products of the epoA-epoE genes, careful reconsideration should be made. Claim 15, the independent claim on which claims 16 and 17 depend, for example, is clearly directed to modifications of a functional polyketide synthase, not individual, arbitrarily chosen reading frames. For instance, the second option set forth in claim 15 is the inactivation of the NRPS-like module 1 or of the KS2 catalytic domain. Such a limitation would make no sense in regard to the elected epoD reading frame, since neither of these options is available. Similarly, the last option in that claim, replacement of the NRPS module 1 with an NRPS of different specificity, is inapplicable to any option except epoB, and this is not a modification of epoB but rather a simple substitution therefor. Similarly, claim 19 states, in the alternative inactivation, of the NRPS of module 1 or the KS2 of module 2. Module 1 constitutes the entire protein product of the epoB gene and module 2 is the entire product of the epoC gene. There is no particular point in making a modification of a single open reading frame that is part of a PKS, absent its presence in the context of a polyketide synthase which is able to make polyketides.

The only rationale provided by the Office for this aspect of the restriction is that the modified polyketide synthases of Groups I-VI are asserted to be individual chemical entities which require different searches. But all of these genes are part of the same epothilone polyketide synthase. They happen to be organized in an arbitrary set of open reading frames. Applicants are unable to envision how a search would be divided according to the various open reading frames of a single polyketide synthase. The scope of the search required is in any event quite limited; the claim is limited to modified forms only of the epothilone polyketide synthase itself. Respectfully, applicants believe that examination of claims directed to modifications of any of the several portions of the complete epothilone polyketide synthase is sufficiently limited

that it imposes no substantial burden on the Office. In addition, as noted above, at least two of the modifications proposed make sense only in the context of a functional polyketide synthase.

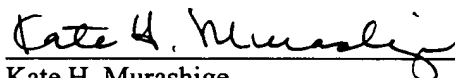
Accordingly, reconsideration of this requirement and consideration of claims 15-17, 19 and 24 and 25 in their entirety is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 300622003110.

Respectfully submitted,

Dated: August 8, 2002

By:



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